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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,472	09/08/2003	Tracee Eidenschink	S63.2H-11273-US01	2675
23552	7590	04/03/2006	EXAMINER	
MERCHANT & GOULD PC			SIRMONS, KEVIN C	
P.O. BOX 2903			ART UNIT	
MINNEAPOLIS, MN 55402-0903			PAPER NUMBER	

3767

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/657,472

Applicant(s)

EIDENSCHINK ET AL.

Examiner

Kevin C. Sirmons

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,6-11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-10,13 and 14 is/are allowed.
- 6) ☒ Claim(s) 2, 3, 6, 7 and 11 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al U.S. Pat. No. 6,099,497 in view Igaki U.S. Pat. No. 5,817,100.

Adams discloses a catheter, the catheter comprising a catheter shaft, the catheter shaft defining a first guide wire lumen (figs. 17 and 18); a stent (156), (figs. 17 and 18); and a secondary guide wire housing (136), the secondary guide wire housing defining a secondary guide wire lumen (136), at least a first distal portion of the guide wire housing being engaged to at least a first proximal portion of the rotatable sheath (figs. 17 and 18). Adams does not disclose a rotatable sheath, the rotatable sheath being disposed about at least a portion of the catheter shaft and rotatable about the catheter shaft, the rotatable sheath having a length substantially less than that of the catheter shaft. However, Igaki discloses a rotatable sheath, the rotatable sheath being disposed about at least a portion of the catheter shaft and rotatable about the catheter shaft, the rotatable sheath having a length substantially less than that of the catheter shaft (figs. 6-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Adams with the rotatable

sheath as taught by Igaki for allowing an arbitrary stent to be employed in combination with an arbitrary catheter. as to claims 3, (see above figs.).

Claims 6-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al U.S. Pat. No. 6,099,497 in view Igaki U.S. Pat. No. 5,817,100 and further in view of Dayton U.S. Pat. No. 5,449,382.

Adams in view of Igaki discloses the device substantially as claimed except for at least a portion of the stent being coated with at least one therapeutic agent. Dayton discloses placing a therapeutic agent on a stent (col. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Adams with the device as taught by Dayton for treating the body.

### ***Response to Arguments***

Applicant's arguments filed 1/27/06 have been fully considered but they are not persuasive.

Applicant indicates that Adams does not teach a distal portion of the "guidewire housing" engaged to a portion of the rotatable sheath. It is the examiners position that once Adams (figs. 17 and 18) has been modified with the rotatable sheath as taught by Igaki, then clearly the distal portion of the "guidewire housing" will be engaged to a proximal portion of the rotatable sheath. Further, it is the examiner's position that the stents disclosed in Igaki (figs. 6-8 and other places within the specification of Igaki) are clearly disposed about the sheath.

Finally, when (figs. 17 and 18) of Adams are modified with the sheath as taught by Igaki, then a distal end portion of the secondary guide wire housing will clearly exit the flow path of the stent through one of the plurality of cell openings. Therefore, the recited limitations of claim 2 are clearly taught and suggested by the combination of references.

### ***Allowable Subject Matter***

Claims 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9-10 13 and 14 are allowable over the prior art of record.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 571-272-4965. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons  
Primary Examiner  
Art Unit 3767  
3/31/06

A handwritten signature in black ink, appearing to read "Kevin C. Sirmons", written in a cursive style.

C.  
KEVIN SIRMONS  
PRIMARY EXAMINER